

REMARKS/ARGUMENTS

Applicants are grateful to the Examiner for the indication of allowable subject matter.

The Claims in the case were claims 1-18. By this amendment and without prejudice to further presentation in a continuing application, independent claims 1 and 17 were amended. Claims 2, 4 and 18 are hereby canceled and claims 19-24, which are dependant claims, are new. Thus, the claims in the case are now claims 1, 3, 5-17, and 19-24.

Independent claim 1 was amended to incorporate the limitation of original claim 18 as suggested by the Examiner and also the limitations of original claims 2 and 4.

Independent claim 17, which recites a kit was amended to also incorporate the limitation of original claim 18.

Dependent claim 7 was amended and dependent claims 19 –24 were added to recite preferred embodiments that further distinguish applicants' invention from prior art methods and kits. Support for these new claims are provided in the specification as follows: claim 19 – page 10, lines 19-22; claim 20 and 22 – pages 22-30, examples 1-4; claim 21 – page 5, line 21 to page 6, line 13; claim 23 – page 25, example 2; claim 24 – page 31, lines 24-26.

The specification has been amended to correct an inadvertent typographical error on page 20 in connection with the inequality set forth therein. Namely, the sentence on line 9 was completed to read "When the rate of oxidation/rate of

diffusion < 1 ," diffusion of hair color precursor is not limited by the rapid formation of dye molecules outside the hair fiber. This amendment does not introduce new matter because it simply provides in words, the alternative to what is said in the specification at lines 4-8 for the conditions when the rate of oxidation of the hair dye precursor /rate of diffusion of hair dye precursor is ≥ 1 : "diffusion of hair color precursor is limited by the rapid formation of dye molecules outside the hair fiber"

In the office action mailed October 21, 2003, the original claims 1-17 were rejected as being anticipated by Cotteret et al (US 5,580,357) under 35 USC §102(b). Applicants' respectfully submit that the amended claims are not anticipated by Cotteret for the reasons set forth below.

Applicants' invention is directed at a method for permanently coloring hair and a kit for carrying this out which provides a much longer-lasting and shampoo-resistant color to the hair. Applicants have found that shampoo and fade resistance is significantly improved by first applying the oxidative dye precursors and allowing them to contact the hair for a fixed time before a developer is applied. Further the applicants have found that the dye precursors should be in a substantially inactive form where the rate of oxidation / the rate of diffusion < 1 during the time period before the developer is applied. This process is quite different from that widely practiced where the oxidative precursors and developer are applied to the hair at or nearly at, the same time. (See specification pages 1, lines 15-28; page 4, lines 7-11, page 5, line 21-page 6, line 23; page 19, line 12 – page 20, line 9.)

Cotteret is directed at compositions and processes for dyeing hair employing the combination of certain oxidative dye precursors and a coupler consisting of 2-methyl-5-aminophenols. Claim 17 recites a process in which the oxidizing agent can be applied at the time of applying the dye precursors or be present in a second composition applied simultaneously or sequentially. However, Cotteret is silent

about the benefits to color resistance arising from applying the dye precursors in a substantially inactive form where the rate of oxidation is lower than the rate of diffusion during a fixed time period (about 5- 60 minutes) before the developer is applied to the hair. Further, in all the examples provided by Catteret, the dye precursor composition is mixed with the oxidizing agent (hydrogen peroxide) "at the time of use" (column 5, lines 41-43). This process of mixing the dye precursors composition and the oxidizing agent at the time of applying to the hair fibers is in fact also recited in claim 18.

In contrast applicants require that the dye precursors remains on the hair for a fixed time interval in a substantially inactive form where the rate of oxidation / the rate of diffusion is < 1 before the developer is applied to the hair.

Applicants respectfully point out that for a claim to be anticipated under §102(b), each and every element of the claim must be present in a single prior art reference. Since Cotteret is silent about the requirement that the dye precursors must remain on the hair for a fixed time interval in a substantially inactive form where the rate of oxidation / the rate of diffusion is < 1 before the developer is applied, applicants' claims are not anticipated by Cotteret.

In light of the above amendments and remarks, it is respectfully requested that the application, as amended, be allowed to issue.

If a telephone conversation would be of assistance in advancing the prosecution of the present application, undersigned agent invites the Examiner to telephone at the number provided.

Respectfully submitted

A handwritten signature in cursive script, reading "Michael Paul Aronson". The signature is written in dark ink and is positioned above a horizontal line.

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